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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/654,341	09/08/2000	Jay S. Walker	97-059-1X	8055

7590 03/24/2003

Walker Digital Corporation
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Stamford, CT 06905

EXAMINER

JEANTY, ROMAIN

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 03/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/654,341	WALKER ET AL.	
	Examiner	Art Unit	
	Romain Jeanty	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 November 2002.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 69-85,90-117 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 69-85, 90-117 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to the amendment filed on November 8, 2002. Claim 69 has been amended. Claims 86-89 have been canceled. Claims 91-117 have been added. Claims 69-85 and 90-117 are present in the application.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b)

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3. Claims 69-70, 80-81, 91-92, 94, 99-100, 102-104, 117 of Application No. 09/654,341 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3-4, 6-7 of U.S. Patent No. 6,336,104, and although the conflicting claims are not identical, they are not patentably distinct from each other because they recite elements that are substantially the same and that would have been obvious to one of ordinary skill in the art.

Claims 69 and 103 of the present application are substantially the same as claim 1 of U.S. Patent No. 6,336,104 with the following:

a. Claim 1 of U.S. Patent No. 6,336,104 does not specifically recite a “credit card number”, instead claiming a “financial account identifier.” Since a credit card is a well known type of financial account, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a credit card number as the financial account identifier in determining an installment plan because credit cards are used to determine credit worthiness of a consumer and their ability to pay back loans on installment

b. Claim 1 of U.S. Patent No. 6,336,104 does not specifically recite “a POS terminal” and “a central controller” (i.e., a client-server architecture), instead claiming a stand-alone terminal. Official notice is taken that client-server architecture is well known in the computer arts. It would have been obvious to a person of ordinary skill in the art at the time of the invention to substitute the client server architecture for the stand-alone terminal because this would allow less costly components to be deployed at the point-of-sale.

c. Claims 69 and 103 of the present application ('341) does not specifically disclose receiving an installment plan identifier defining an installment plan for payment of the purchase

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price, the installment plan identifier being received in response to at least one of the transmitted purchase price and financial account identifier (a credit card). However, since the purchase data is being transmitted from the central from the central controller (i.e. client server architecture), it implies that the purchase data has to be received by the POS (point-of sale terminal).

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.

5. Claims 69-85 and 90-117 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As per claims 69 and 103, for a claimed invention to be statutory, the claimed invention must be within the technological arts and provide a concrete tangible result. The claimed invention does not fall within the technological arts because no form of technology is disclosed or claimed. The examiner notes that the disclosed and claimed invention is directed to nothing more than a human making mental computations and manually generating..., transmitting... Therefore, 69-85 and 90-117 are deemed to be non-statutory. It should be noted that the specification discloses the use of various techniques to implement the steps recited in 69-85 and 90-117. For example, references are made to the use of a computer. Incorporating a computer into claims 69-85 and 90-117 would be limited to the technological arts and overcoming the 35 U.S.C. 101 rejection set forth. Appropriate correction is required.

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Claims 70-102 depend on base claims 69 and claims 104-117 depend on base claim 103 and inherent same deficiency as the parent claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. IRI (JP60251498) discloses (Installment Payment Processing Method of Electronic Cash Register).

b. Nozawa (JP289000) discloses (Installment-Payment Information Processing Device).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Romain Jeanty whose telephone number is (703)308-9585. The examiner can normally be reached on Mon-Thurs 7:30 am - 6:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R Hafiz can be reached on (703)305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-3900.

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Romain Jeanty



A handwritten signature in black ink, appearing to read "Romain Jeanty".

Patent Examiner

March 8, 2003